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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,351

Applicant(s)

PLENDERLEITH, WILLIAM

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Preliminary Amendment

1. The preliminary amendment and the substitute Specification received on November 20, 2001 has been entered.

Claim Objections

2. Claim 7 is objected to because of the following informalities: In lines 2-3, the phrase "a rotatable disk" should be changed to "said rotatable disk" or "the rotatable disk". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites the limitation "said central portion" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-7, 9, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Guidry (US Patent 5,584,787).** Guidry discloses a vehicle for traveling over grassland and similar terrain, said vehicle comprising a generally horizontal platform (2) having attached to its underside two or more rotatable disks (4) each having a lower surface adapted to contact the ground, each of said two or more rotatable disks arranged to rotate about a generally vertical axis (See Fig. 4), the underside of each of said two or more rotatable disks being substantially convex in form (See Fig. 4); wherein said two or more rotatable disks are arranged along a longitudinal axis of said platform (See Fig. 2); wherein said platform is resiliently pliable (See column 2, lines 58-63, which states that the footboard can be made from various materials having flexural strength, which is inherently pliable); wherein said platform comprises a first area on its upper side towards the front of said platform adapted to receive one foot of the user, and a second area on its upper side towards the rear of said platform adapted to receive the other foot of the user, said platform comprising a central portion between the first and second areas adapted to flex resiliently about a lateral axis in the plane of said platform (See column 2, lines 58-63, which states that the footboard can be made from various materials having flexural strength, which indicates that the platform is adapted to flex); wherein the first area of the platform is provided with a first rotatably mounted foot support member (16), and the second area of the platform is provided with a second rotatably mounted foot support member (16); wherein each foot support member is rotatably mounted such that its axis of rotation is substantially coincident with the axis of rotation of a rotatable disk; wherein said central portion comprises a portion of said

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platform having a reduced cross-sectional area (See Fig. 2); wherein each of said two or more rotatable disks is solid (See Fig. 4); wherein the lower surface of each of said two or more rotatable disks is substantially in the form of part of the surface of a sphere, an ellipsoid, a truncated cone, or a truncated toroid.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guidry (US Patent 5,584,787) in view of Logan (US Patent 4,928,982).** Guidry discloses a vehicle as set forth above, but does not disclose the axis of rotation of at least one of said rotatable disks being inclined in a first rotational sense about the longitudinal axis of the platform, and the axis of rotation of at least one other rotatable disk being inclined in an opposite rotational sense about the longitudinal axis of the platform. Logan discloses a skate having first and second rotatable disks being oppositely inclined in relation to one another (See Fig. 3). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to arrange the rotatable disks disclosed in Guidry oppositely inclined to one another as taught by Logan. The motivation for doing so would have been to allow the rotatable disks to rotate more freely in the forward direction allowing the platform to be more stable.

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Regarding claim 22, Logan discloses wherein the platform has attached to its underside three or more rotatable disks arranged along the longitudinal axis of said platform (See Fig. 1). Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least three rotatable disks, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

9. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guidry (US Patent 5,584,787) in view of Powell (US Patent 1,975,661).** Guidry discloses a vehicle as set forth above, but does not disclose wherein said first and second foot support members are each provide with boot or shoe retention means. Powell discloses providing boot or shoe retention means (27,28) for first and second foot support members. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide boot or shoe retention means for the foot support members disclosed in Guidry in view of the teaching of Powell. The motivation for doing so would have been to secure the user's foot to the platform during use.

10. **Claims 12-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guidry (US Patent 5,584,787) in view of Heatwole (US Patent 4,530,498).** Guidry discloses a vehicle as set forth above, but does not disclose wherein each of said two or more rotatable disks is supported on a spindle attached to the underside of said platform. Heatwole discloses wherein each of said two or more rotatable disks is supported on a spindle (See Fig. 3) attached to the underside of said platform. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to attach the rotatable disks of Guidry with

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spindles as taught by Heatwole. The motivation for doing so would have been to allow the disks to have a greater range of motion.

Regarding claims 13-16, Guidry discloses providing additional support means/rollers (18) adapted to provide additional support for each of said two or more rotatable disks in addition to said spindle. In regards to claim 14, a roller is a type of idler wheel.

Regarding claim 18, Heatwole discloses wherein each of said two or more rotatable disks is hollow, said upper surface of each of said two or more rotatable disks being substantially concave in form. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to use hollow disks for the rotatable disks disclosed in Guidry as taught by Heatwole. The motivation for doing so would have been to reduce the weight of the rotatable disks. In regards to claim 19, it would have been obvious to additionally configure the shape of the platform to correspond to the concave shape of the disks.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guidry (US Patent 5,584,787) in view of Douglass (US Patent 5,409,265). Guidry discloses a vehicle as set forth above, but does not disclose wherein the platform has a generally concave shape in a longitudinal direction in its unstressed state, such that the central portion of the platform is lower than the ends of the platform. Douglass discloses a platform having a generally concave shape in the longitudinal direction in its unstressed state (See Fig. 1), such that the central portion of the platform is lower than the ends of the platform. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a concave platform for Guidry as taught by Douglass. The motivation would have been to allow the user to produce greater leverage on the ends of the platform during turning maneuvers.

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12. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guidry (US Patent 5,584,787) in view of Hambsch (US Patent 5,855,385).** Guidry discloses a vehicle as set forth above, but does not disclose wherein the platform has a generally convex shape in a longitudinal direction in its unstressed state, such that the central portion of the platform is higher than the ends of the platform. Hambsch discloses a platform having a generally convex shape in the longitudinal direction in its unstressed state (See Fig. 3), such that the central portion of the platform is higher than the ends of the platform. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a convex platform for Guidry as taught by Hambsch. The motivation would have been to allow the user to produce selective deformation of the area so as to vary the arc provided by the sidecut of the platform (See column 4, lines 19-27).

Conclusion

13. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure. Davignon (US Patent 5,292,296), Costa, JR. et al. (US Patent 2002/0070514), Podoloff et al. (US Patent 6,543,769 B1) and Vance (US 2001/0052683 A1) are relied on to show a platform with vertically configured roller wheels. Cudmore (US Patent 3,885,804) and Powell (US Patent 1,975,661) are relied on to show a generally vertical pair of roller wheels. Guidry (US Patent 5,730,690) is relied on to show a balancing board with vertically mounted rotatable disks. Welsh (US Patent 5,236,208) is relied on to show a steerable platform for a skateboard.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Johnson can be reached on (703) 308-0885. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

J. Allen Shriver
Examiner
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JAS


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10/30/03